



**UNITED STATES DEPARTMENT OF COMMERCE**  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/925,703 09/09/97 ALLEN

D MICL: 024 (97-

EXAMINER

LM02/0831

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ART UNIT

PAPER NUMBER

2755

DATE MAILED:

08/31/99

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

08/925,703

Applicant(s)

Duane Le Allen

Examiner

George Opie

Group Art Unit

2755

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☐ Responsive to communication(s) filed on 6-7-99
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-33 is/are pending in the application.
- ☐ Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-33 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

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## DETAILED ACTION

This Office Action is responsive to Amendment A, filed 6/3/99. Claims 1, 10, and 19 have been amended. New claims 28-33 are presented for examination on the merits.

### Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:  
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
2. Claims 1-5, 7-8, 10-14, 16-17, 19-23, and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leyda in view of Harding.

As to claim 1, Leyda (col 5 ln 36 to col ln 16) teaches generating an external configuration file (having a specialized CONFIG.SYS file 106) containing information about a plurality of devices (that contains lines of code to load all the software driver files 104), identifying a particular device associated with the computer (identify the particular type of CD-ROM drive), the particular device being one of the plurality of devices (from the plurality of software driver files 104), installing a driver (loads the corresponding software driver) according to the information stored in the external configuration file and the particular device's identity (system 100 automatically identifies the particular type of CD-ROM drive 30 and loads the appropriate software driver file). Leyda does not teach installing the operating system according to information stored in the external configuration file and the particular device's identity.

Harding teaches installing the operating system according to information stored in a setup file (the selected language version of DOS can be properly installed . . . the software setup program simulates the method of software installation used by the computer manufacturer col 13 ln 21-27).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Leyda with Harding because the external file for handling the device drivers can be incorporated into a program

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for installing an operating system and this combination would facilitate the updating of systems and devices by allowing drivers and or the OS to be more easily and correctly changed.

As to claim 2, Harding teaches installing applications after the driver and the operating system are installed (the operating system and graphical user interface are installed onto the hard disk drive first, and then the device drivers, followed by the applications col 4 ln 45-56).

As to claim 3, Harding teaches determining one installation procedure from among a plurality of options (running the appropriate batch file for the selected language, which explodes the user selected language versions of the DOS and Windows modules col 6 ln 41-47). The language selection procedure as taught by Harding, determines a specific installation for deriving a desired DOS version; this corresponds to applicant's determining one installation from among a plurality of options. In the interest of flexibility and efficiency, it would be important to incorporate a mechanism for choosing an installation procedure from a variety of possibilities. Consequently, it would have been obvious to employ a facility for determining one procedure for installation from a number of alternatives.

As to claim 4, Leyda teaches the particular device is identified dynamically (ability to automatically identify and configure devices) col 10 ln 62-65.

As to claim 5, Leyda teaches the dynamic identification (automatically identifies col 4 ln 45-48) is at least one of automated and user-driven (The CPU 12 sequentially executes the lines of code in the CONFIG.SYS file . . .) col 3 ln 31-39, which is a mechanism for user-driven input/control regarding system functions. Thus, it would have been obvious to have automated and user-driven methods for performing the process; moreover, it would have been obvious to use either an automatic or a user-driven routine.

As to claim 7, "Official Notice" is taken that a display device, a sound device, a modem, and a controller are components that need respective drivers for the system to function properly is well known in the art (MPEP 2144.03).

As to claim 8, Harding teaches a system of patching OS files in order to have the OS correctly conform to a selective configuration, col 3 ln 31-45; this system of modifying OS files as taught by Harding corresponds to applicant's patching errors in an OS configuration file with information in the configuration file. It would have been an obvious modification to use the external configuration file for implementing the corrective patching to fix the OS config file.

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As to claims 10-14 and 16-17 note the discussion of claims 1-5 and 7-8 above. Claims 10-14 and 16-17 are the same as claims 1-5 and 7-8 respectively, except claims 10-14 and 16-17 are computer program product claims and claims 1-5 and 7-8 are method claims.

As to claims 19-23 and 25-26 note the discussion of claims 1-5 and 7-8 above. Claims 19-23 and 25-26 are the same as claims 1-5 and 7-8 respectively, except claims 19-23 and 25-26 are apparatus claims and claims 1-5 and 7-8 are method claims.

**3. Claims 6, 15, and 24 are rejected under 35 U.S.C. § 103 as being unpatentable over Leyda in view of Harding as applied to claim 1 above, and further in view of Lipe et al.**

As to claim 6, Lipe teaches a configuration system involving ISA, PCI, SCSI, and IDE devices (p14-15). Integrating Lipe's teaching with Leyda as modified would facilitate installation of an OS and devices in connection with the aforementioned standards, and thereby provide a more inclusive system for compatibility and operability with the numerous variety of computer systems that are on sale or in use. Hence, it would have been an obvious modification to combine configuring of a system containing peripheral components in the aforementioned formats as taught by Lipe with Leyda as modified for installing an OS and associated devices.

As to claim 15 note the discussion of claim 6 above. Claim 15 is the same as claim 6, except claim 15 is a computer program product claim and claim 6 is a method claim.

As to claim 24 note the discussion of claim 6 above. Claim 24 is the same as claim 6, except claim 24 is an apparatus claim and claim 6 is a method claim.

**4. Claims 9, 18, and 27 are rejected under 35 U.S.C. § 103 as being unpatentable over Leyda in view of Harding as applied to claim 1 above, and further in view of the admitted prior art.**

As to claim 9, the admitted prior art teaches that the device drivers are typically installed during the OS installation, applicant's background p4 ln 15-17. Therefore, it would have been obvious to have a scheme that installs the driver and the operating system contemporaneously.

As to claim 18 note the discussion of claim 9 above. Claim 18 is the same as claim 9, except claim 18 is a computer program product claim and claim 9 is a method claim.

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As to claim 27 note the discussion of claim 9 above. Claim 27 is the same as claim 9, except claim 27 is an apparatus claim and claim 9 is a method claim.

The prior art of record and not relied upon is considered pertinent to the applicant's disclosure. Each reference disclosed below is relevant to one or more of the Applicant's claimed invention.

U.S. Patent No. 5,640,562 to Wold et al. which teaches a facility for installing device drivers and an OS kernel;

U.S. Patent No. 5,713,009 to Derosa et al. which teaches a configuration file for setting-up the system devices and OS;

U.S. Patent No. 5,613,125 to Nguyen et al. which teaches a system for controlling devices in conjunction with the OS by means of a special configuration file.

**5. Claims 28-30 are rejected under 35 U.S.C. § 103 as being unpatentable over Leyda in view of Harding as applied to claim 1 above.**

As to claims 28-30, the recitation regarding the replacing contents of the Autoexec.bat file utilizing information from an external configuration file is a common practice in software installation.

**6. Claims 31-33 are rejected under 35 U.S.C. § 103 as being unpatentable over Leyda in view of Harding as applied to claim 1 above, and further in view of Imai et al. (U.S. Patent 5,717,930).**

As to claim 31, Imai (c6 l5-47) teaches installing the operating system (installation system) includes specifying information generated utilizing the external configuration file (installation server 3 comprises a storage means 3a) as the information setup file for the OS setup file (including an operating system software program ... and the information for setting up the environment). It would have been obvious to combine Imai's teaching on the specifying setup information from an external installation module with the teachings of Leyda as modified by Harding because the externality would enable easy updates/modifications of system parameters through an independent module.

As to claim 32 note the discussion of claim 31 above. Claim 32 is the same as claim 31, except claim 32 is a computer program product claim and claim 31 is a method claim.

As to claim 33 note the discussion of claim 31 above. Claim 33 is the same as claim 31, except claim 33 is an apparatus claim and claim 31 is a method claim.

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7. Applicant's arguments have been considered. With respect to the leyda reference the arguments are not persuasive; similarly, the arguments are not persuasive regarding the teachings of Harding and its use in combination with Leyda. Contrary to Applicant's assertions that the rejections are untenable, the references do teach the recited limitations and, taken together, make for sound rejections which are hereby maintained. As to newly added claims 31-33, a new reference has been cited due to the new limitations.

Applicant argues (claims 1, 10, and 19) the teachings of Leyda and Harding do not meet the recited limitations in the independent claims; more specifically, Applicant argues that the combination of references does not teach OS installation according to an external config file. The Leyda reference, as pointed out in the discussion of claim 1 in the previous Office Action, does teach an external configuration file (specialized CONFIG.SYS file 106). Leyda's config file is used for installing drivers, but it is not used for installing an OS. However, the teaching of Leyda discloses the concept of an external configuration file for managing installation issues, and it was/is this concept for which the reference was used.

Harding does teach an OS installation directed by a type of setup file, c13. Harding's setup file performs an OS installation pursuant to the user's selection of a language. Harding puts the appropriate OS files in the proper directory. The Harding reference teaches the concept that a file can direct an OS installation. Accordingly, this reference is cited to provide a mechanism for installing an OS package in connection with particular needs/system parameters.

Combining the installing feature of Harding with the external config file as taught by Leyda does meet the limitation of installing the OS according to information in an external file.


#### Action Is Final

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the

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advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Opie whose telephone number is (703) 308-9120.



ALVIN E. OBERLEY  
SUPERVISORY PATENT EXAMINER  
GROUP 2700